THE HON'BLE SRI JUSTICE V.ESWARAIAH

Writ Petition No.832 of 2006

17.01.2006

Between:

D.L.Nagaraju

... PETITONER

AND

The State of Andhra Pradesh, rep. By its Secretary, Municipal Administration, Secretariat Buildings, Hyderabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.ESWARAIAH

Writ Petition No.832 of 2006

ORDER:

Heard the learned counsel appearing for the petitioner, the learned Government Pleader for Municipal Administration appearing for the first respondent and the learned Standing Counsel appearing for the second respondent.

The petitioner was granted leasehold rights for collecting fee at cycle parking stand at Hindupur Municipal Market from 01.04.2005 to 31.03.2006 on the lease amount of Rs.2,41,000/- as per the Resolution of the Municipal Council. Admittedly, the lease expires by 31.03.2006. It is stated that auction notification in R.O.C.No.278/2003-A1, dated 04.01.2006, was issued informing the general public of Hindupur town that the leasehold rights for collecting fee in respect of Municipal Market Cycle Stand and others will be conducted on 25.01.2006 at 11.00 am for the year 2006-07 i.e., for the period from 01.04.2006 to 31.03.2007. There are as many as six items and one of the items is the collection of fee in respect of Municipal Market Cycle Stand. It is also stated that the petitioner made a representation, dated 04.01.2006, seeking extension of the

lease period for collection of fee at Municipal Market Cycle Stand for a further period of three years from 01.04.2006 on enhancement of rent by 33.1/3%, as in the case of shops in the market as required under Rule 12(1)(e) of the A.P.Municipalities (Regulation of Receipts and Expenditure) Rules, 1968 (for short 'the Rules').

It is pertinent to note that the auction notification is also dated 04.01.2006, on which date, the petitioner is said to have made a representation before the second respondent. It is stated that the petitioner is entitled to renewal of the lease under the same conditions, subject to enhancement of rent by 33.1/3% for a period of three years, as provided under Rule 12(1)(e) of the Rules. On a perusal of the second proviso to Rule 12(1) of the Rules, it is clear that no doubt the Municipal Council may renew the lease for a period of three years at a time and with the prior sanction of the Government for a period exceeding three years and not exceeding 25 years without conducting public auction, if the present lessee agrees to renew the lease in his favour at an amount which will be at 33.1/3% above the earlier rent or the prevailing market value of such shops situated in the vicinity, whichever is higher.

I am of the opinion that the petitioner is neither a lessee of a shop nor a tenant. He is a licensee. Therefore, second proviso to Rule 12(1) of the Rules has no application for the renewal of the lease by the Municipal Council. I am also of the opinion that the petitioner has no legal or any vested right to seek renewal of the lease. When the notification has been issued for conducting public auction, it is as well open to the petitioner to participate in the public auction and secure leasehold rights. But, he is not entitled to any renewal of the lease even on enhancement of 33.1/3% above the earlier rent. Therefore, I do not see any merit in the writ petition.

The writ petition is accordingly dismissed. However, this order will not preclude the second respondent to consider and dispose of the representation made by the petitioner, if any pending, in accordance with law. No costs.

17.01.2006

VGB